

October 26, 2009

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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

OCTOBER 26, 2009

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN  
FRANCIS BEDETTI, JR.  
PAT TORPEY  
JAMES DITTBRENNER  
LEN MCDONALD

ALSO PRESENT: ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

NICOLE JULIAN  
ZONING BOARD SECRETARY

REGULAR MEETING

MR. KANE: I'd like to call the Town of New Windsor  
Zoning Board of Appeals regular session October 26,  
2009 meeting to order.

APPROVAL OF MINUTES DATED 8/24/09, 9/14/09 AND 9/29/09

MR. KANE: Motion to accept minutes of August 24, 2009,  
September 14, 2009, September 28, 2009 meetings as  
written.

MR. DITTBRENNER: So moved.

MR. BEDETTI: Second it.

ROLL CALL

October 26, 2009

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MR. DITTBRENNER	AYE
MR. BEDETTTER	AYE
MR. TORPEY	AYE
MR. MCDONALD	AYE
MR. KANE	AYE

PRELIMINARY\_MEETINGS:

LYNETTE\_MITCHELL\_&\_ALDRIC\_CARTHENS\_(09-33)

MR. KANE: Tonight's first preliminary meeting Lynette Mitchell and Aldric Carthens request for proposed addition will not meet the required front yard and side yard setbacks, required total side yard and developmental coverage.

Mr. James Raab appeared before the board for this proposal.

MR. KANE: Just speak loudly so this young lady over here can hear you, state your name and address.

MR. RAAB: I'll speak as loud as I can.

MR. KANE: The way New Windsor works we hold two meetings, we hold a preliminary meeting so we can get a general idea of what you want to do and make sure you have all the information we need and you have all the information you need. And then it goes before the public for a decision.

MR. RAAB: As was stated, there's four variances necessary for this application. This property is located down on River Road adjacent to water tanks. As you can see from this aerial photograph here, these are the fuel tanks are down in here, okay, this is coming up the hill from the bars down in here coming up the hill there and they're right adjacent to the property that has the fuel tanks on it. What they're proposing on doing is the young lady here is due looks like any day now, this is for a nursery that's going to add to the house. They would, they can't buy a bigger house, they really can't afford it at this time so they're adding 14 feet, I guess something like that on the side of the house here and yes, we're asking for a very small variance on that side yard but there's nothing on

that side at all. That wraps around and drops off fairly rapidly at the property line. Give a view of the addition, okay, is proposed to be, you'd still pull the car off the road and underneath the addition, the addition is coming off the top here, all right, so again, yes, it is a considerable amount here but that's really the only setback, all the rest of them pretty much already exist, those conditions that we're asking the other variances for pretty much already exist, the front yard and both side yards because that's because you have the one that's really bad and then the maximum impervious surface which in this case it's elevated, it's still a coverage thing but again, it's all elevated off the ground.

MR. KANE: Where the vehicle parks underneath is that going to be impervious?

MR. RAAB: Yes, well, it already is, that surface is already impervious, it's a driveway right now.

MR. KANE: So we're really, you're really not adding developmental coverage then are we?

MR. RAAB: Not really but they don't count driveways in the zoning I don't think but the impervious surface it's already there so we're not really adding to the impervious surface, again, we're not denying that the, some of the variances are considerable but the fact of the matter is is that most of those--

MR. KANE: It's a unique home where it is.

MR. RAAB: With the exception of the one for the side yard.

MR. KANE: The front yard variance is needed to clean it up basically or you're angling a little bit closer?

MR. RAAB: We're increasing the non-conformity a little

bit, I think it's less than two feet, I believe.

MR. KANE: Yeah, looks that way, okay. One question I had on this picture, going back here is this a fence that's right there?

MR. RAAB: Yes, it is, I think it shows up in the photographs we showed of the back yard but I'm not quite sure. I tried to get as many views of it as it is, it doesn't show up in the aerial I showed you because this is from a few years ago. But I believe it's in the pictures that I submitted cause it kind of gives you have the view of the fence and the decks that are behind it.

MR. KANE: Cutting down any trees, substantial vegetation in the building of the addition?

MR. RAAB: No.

MR. KANE: Creating any water hazards or runoffs?

MR. RAAB: No.

MR. KANE: Questions I have to ask, they may seem a little silly but I have to ask them anyway. Any easements running through where you're proposing the addition?

MR. RAAB: No.

MR. KANE: And the size of the addition is the minimum you need to fit your needs so you wouldn't consider 14 x 14, 15 x 16 as a big addition?

MR. RAAB: Well, we minimized it to, Taconic sat down, the architectural people sat down with them and they planned it out so it could possibly be because we were trying to do what we could in a very limited area.

MR. KANE: And our job here too we've got to ask questions to make sure you're doing the minimum we need when we go with these variances. Further questions from board?

MR. DITTBRENNER: I have none.

MR. KANE: I will accept a motion for a public hearing.

MR. MCDONALD: I'll make that motion that we schedule a public hearing for Lynette Mitchell and Aldric Carthens for the variance as requested.

MR. DITTBRENNER: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTTER	AYE
MR. TORPEY	AYE
MR. MCDONALD	AYE
MR. KANE	AYE

MR. KANE: So you guys understand what we do basically when you come back for the public hearing we're going to go through the same thing, the same type of questioning and at that point, it will be opened up to the public whatever neighbors want to come in, ask their questions, that kind of stuff and we'll render a decision. But you have the pictures that we need, all the questions are there, so pretty good up front.

MR. RAAB: Appreciate it.

PUBLIC HEARINGS:

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MARY\_ANN\_CORBETT\_(09-32)  
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MR. KANE: First public hearing Mary Ann Corbett request for proposed 7 foot by 16 foot porch with roof will not meet minimum 45 foot front yard setback, a variance of 13 feet is required at 12 Walnut Street in an R-4 zone. Miss Corbett?

Ms. Mary Ann Corbett appeared before the board for this proposal.

MS. CORBETT: Good evening, ladies and gentlemen. I did submit everything, I sent in pictures to everybody. First off, my home does not sit 45 feet setback to begin with on Walnut Street, it's raised, it's one of the ones that has the retaining wall and it's on the north side of the road third house up from Royal Food. There was a porch there that literally dilapidated and broke and crumbled and disintegrated away that it was a safety issue and I did take it out when it was broken down. So I'm actually replacing a porch but I wanted to carry it to the end of my home. My house, if you look at the front picture of my house, the kitchen extends out about two feet from my front door from where my front door and my living room section is so actually just like this here, this would be, this would be the kitchen area that sticks out and here's where you get into the door, so the porch is actually starting here and coming out just a little passed where it was. The stairs, the bottom of the stairs are actually what's creating the large variance. The porch itself is not that far passed what it was. And instead of just bringing it out to this small area that it was, it was like half way out, I'm carrying it all the way to the end of the house instead of having it stop again and having the home I want to put the whole thing across the front, that's why it came to the 16 feet. And the reason for the porch, I mean, the reason for

the roof it's better maintenance, it's better protection, it looks a little bit nicer in my opinion for even usefulness and so that's why I'm here.

MR. KANE: Okay, couple of standard questions. Cutting down any trees or substantial vegetation in the building of the deck?

MS. CORBETT: No, sir.

MR. KANE: Creating any water hazards or runoff?

MS. CORBETT: No.

MR. KANE: Any easements running through the area where you want to build the deck?

MS. CORBETT: Not to my knowledge, no.

MR. KANE: And as per the picture, the porch is necessary because you probably have a good three foot drop from the front door down to the ground?

MS. CORBETT: Correct, at least.

MR. KANE: And if you look at the other picture that's in here with you building the porch it's not going to extend any further basically than what's extending from the house further down the street?

MS. CORBETT: That's correct.

MR. KANE: As you can see in this picture right here.

MS. CORBETT: Yes.

MR. KANE: You see what I'm talking about?

MS. CORBETT: I was asked before I, when I was coming was there 10 feet between the two homes, there's not 10



feet between the, to the home when you look at my house, the home to the right of me is not 10 feet.

MR. KANE: And you're only coming out, let the record show you're only coming out 7 feet from the house and 16 long so it's not an overly large front porch?

MS. CORBETT: Correct, it's not.

MR. KANE: Any questions from the board at this moment?

MR. BEDETTI: Now what you're closing in is just going to meet up with what you have here?

MS. CORBETT: Actually, no, it's coming a tiny bit out but it's going all the way to the end, it was stopped right here where you can see the different coloring and I just wanted to carry that tiny bit to the end.

MR. BEDETTI: How far is the house actually from, in other words, requirement is--

MS. CORBETT: It's actually 40 feet setback from the road, it's 40 feet so I'm already 5 to begin with, yeah, it actually, and like I said, the bottom of the stairs, actually, the porch itself is, only goes, actually is going to be 40 feet itself and the steps would be a little further. But the steps are coming right where the sidewalk is where the pre-existing sidewalk was still there and the steps end basically right there.

MR. KANE: At this point, I will open it up to the public, ask if there's anybody here for this particular hearing? Seeing as there's not, we'll close this portion of the meeting, bring it back to Nicole and ask her how many mailings we had.

MS. JULIAN: On the 7th day of October, 2009, I mailed out 51 addressed envelopes with no written response.

MR. KANE: Okay, any further questions from the board?

MR. TORPEY: No.

MR. DITTBRENNER: Mr. Chairman, I would move that we approve the variance request of Mary Ann Corbett at 12 Walnut Street for the addition of a 7 x 16 foot front porch that will require 13 foot variance for front yard setback.

MR. TORPEY: I'll second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTTER	AYE
MR. TORPEY	AYE
MR. MCDONALD	AYE
MR. KANE	AYE

SONIC\_DRIVE-IN\_(09-31)

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MR. KANE: Tonight's next public hearing is Sonic Drive-In referred by the planning board for interpretation and/or variance required for 22 menu boards, sign interpretation whether they would be menu boards signs or freestanding signs, a variance for a facade sign which measures 41 inches x 90 inches and is permitted only 2 1/2 feet by 10 feet at the Wal-Mart complex, Route 300. We're all set. You want to give your name for the record?

MR. KOEHLER: Dan Koehler with Hudson Land Design, engineer for the applicant. The site is located between Union Avenue and Liner Road and the way this works it's a drive-in and drive-thru type complex, drive-thru just like any other fast food type restaurant. The drive-in component is where the cars actually come on in and they park underneath the canopies at which point there's a menu there and they are able to look at the menu, when they're ready, they hit the button on that menu, they order their food, car hop brings the food out. They can also pay there as well. There's 20 of the service spaces, there's also some standard parking for our patio area, there's an outdoor patio which has a covered canopy on that as well. Those are for outdoor eating. There's two of the menu boards at that location as well. So in total, there's 22 menu boards that we're here to talk to the board about this evening. And the facade sign is located on the tower of the building, it's the second reason why we're here, so generally this is a general idea of what the building will look like, this is the facade sign that we're talking about over here and the Town Code permits 2 1/2 feet high by 10 feet wide facade signs. Our sign is no more than 25 square feet which is basically what the 2 1/2 x 10 would give you. The issue is is that in our standard signs we have a 41 inch height on that sign so what we're asking for is relief of 11 inches in height, however, we're in

tighter than the 10 foot width.

MR. KANE: And total square feet of the sign equals what the normal regulations are now?

MR. KOEHLER: Less than, just less than 25, yes.

MR. KANE: The facade sign internally illuminated?

MR. KOEHLER: Yes.

MR. KANE: Any flashing?

MR. KOEHLER: No.

MR. KANE: Any other questions from the board on the facade sign at this point? Okay, tell us about the menu boards.

MR. KOEHLER: Okay, without the menu boards, we can't operate, so it's an operational requirement for us. The menu boards are about the same size as this map right here and as I said before, the car pulls in and the driver's window is right here and they're able to look at the menu, there's a button right in around here, they'd hit that button and then they'd be able to put their order in and the car hop brings the food out.

MR. TORPEY: It's like a drive-in.

MR. KOEHLER: Exactly, it's an old 1950's type drive-in.

MR. KANE: You do electronic communications to the outside through that?

MR. KOEHLER: Yes.

MR. KANE: You mentioned before you can pay through it also?

MR. KOEHLER: With either a Sonic card or credit card.

MR. KANE: So my understanding is that that's why you perceive this as a menu board and not a sign because it does more than a specific sign does?

MR. KOEHLER: Well, it does have more than one function as a, than a menu, I mean, it's not a sign for when people are driving by the site, they say oh, wow, there's a sign that says come on in here and eat our food. The writing is relatively small so you can really only read it if you're pulled up next to it.

MR. KANE: It's not for advertising purposes at all, it's for transactions to be performed?

MR. KOEHLER: Right, exactly. There's a lot of information squeezed on a small sign.

MR. KANE: Okay, couple of questions I have to ask. Not cutting down any trees, substantial vegetation in the building of this?

MR. KOEHLER: No.

MR. KANE: Creating water hazards or runoffs?

MR. KOEHLER: No.

MR. KANE: Any easements running through the area where you want to put this?

MR. KOEHLER: No.

MR. KANE: I think at this point I'm going to open it up to the public and ask if there's anybody here for this particular hearing? Nobody here for this particular hearing? Yes? Name and address?

MR. BRAUN: Leo Braun. If I'm understanding and I think you just answered the question of the clarification of reference to menu boards and to me that's the only answer that I got to me they were, well, it was good as far as I'm concerned. About the signs being a little too high, that's the only thing I don't like but the menu board through the clarification of what you just said previously I accept it.

MR. KANE: Okay, which sign height, there's no height restriction that we're going with right now, are you talking about the height of the--

MR. BRAUN: The overall height. May I look at that?

MR. KANE: Yes. You're talking the facade sign?

MR. BRAUN: The overall facade sign, I haven't seen a picture yet.

MR. KOEHLER: This is the facade sign.

MR. BRAUN: If I'm not mistaken, 30 inches is what's allowed, you want to raise it up to 42?

MR. KOEHLER: Forty-one only in this one area over here, as you can tell, the sign dips down and comes back up.

MR. BRAUN: So overall it's going to be 42 at one end, 42 at the other?

MR. KOEHLER: Forty-one at one end and I believe 35 1/2 on the other end.

MR. BEDETTI: Leo, there's a picture right here.

MR. KANE: It's got all the measurements.

MR. BRAUN: Okay, all right.

MR. KOEHLER: Less than the requirement at some point in the middle.

MR. KANE: Basically, what they're saying even though their dimensions are a little higher but shorter than what the town calls for the square footage of the sign is within.

MR. BRAUN: But you're going on the total footage is within reason.

MR. KANE: It's within the rules, we're not here for that, it's really just the height of the sign, they're going to go up 11 inches but they're a lot shorter than what we require.

MR. KRIEGER: What the deal basically is is the New Windsor Town Code doesn't specify square feet, it specifies dimensions but by simple mathematical calculation you figure out what the square feet is, what this applicant is saying the square feet are the same, the dimensions are a little off what's allowed, they're a little lower on one end and higher on the other.

MR. BRAUN: It's an unusual shape just to me a little too high for me, that's all right, thank you.

MR. KANE: Thank you, sir. Anybody else for this particular hearing? Seeing as there's no one else here, we'll close the public portion of the meeting and ask Nicole how many mailings we had.

MR. BEDETTI: I was going to ask the gentleman relative to his question, you're saying it's a little bit too high, you mean it's too wide or is it sitting too high on the tower there? I'm not quite clear on what you're saying too high.

MR. BRAUN: Well, that's another good question as well the height, everything else of the overall thing, what's the actual height total even with the concrete fascia, is it beyond three stories?

MR. KOEHLER: No, no, no.

MR. KANE: It's not an issue.

MR. KOEHLER: It's not a very tall building.

MR. BRAUN: So just one story?

MR. KOEHLER: Yeah, one story.

MR. BRAUN: All right.

MR. BEDETTI: Yeah, okay then.

MS. JULIAN: On the second day of October, 2009, I mailed out nine addressed envelopes with no written response.

MR. KANE: The signs themselves, the Sonic sign or the menu signs they're not going to interfere with any kind of traffic visually that's coming down 300?

MR. KOEHLER: No.

MR. KANE: No flashing illumination whatsoever?

MR. KOEHLER: No.

MR. MCDONALD: They're illuminated, right?

MR. KRIEGER: They're internally but nothing flashing?

MR. KOEHLER: Yes.

MR. MCDONALD: It faces 300 or--



MR. KOEHLER: 300 is basically running along here.

MR. MCDONALD: This will be visible from 300?

MR. KOEHLER: Yeah, the one on the tower here.

MR. TORPEY: He wants to be able to get in there.

MR. KANE: Any further questions from the board?

MR. BEDETTI: If I recall the last time we met there was some question about how the town handles the other menu boards, no response from them?

MR. KRIEGER: I believe the question was how other towns handled the menu.

MR. BEDETTI: No, the question was how we handled Burger King.

MR. KANE: For instance, when we did Burger King over in the K-Mart plaza and we had a lot of signage to do for that and I don't remember the, you know, the drive-up menu board as part of that signage at all. And I can't remember that far back from McDonald's to be honest so yeah, we had no response back on it so I'm taking the position that is really a transaction based piece of equipment that's out there rather than a sign but that's my own personal opinion.

MR. KOEHLER: It's operational.

MR. KANE: It's unique.

MR. KRIEGER: It's permitted as an operational device, it's not regulated by the sign regulations.

MR. BEDETTI: I have one other question. Are we handling these as two separate issues, the sign, Sonic

sign as one issue and the interpretation of the menu board as a separate item?

MR. KANE: Yes, we're going to make two separate votes. Any further questions from the board? I'll accept a motion on the facade sign.

MR. BEDETTI: I will make a motion that we grant the variance for the facade sign for 41 inches by 90 inches for the Sonic Drive-In at the Wal-Mart 300 plaza.

MR. TORPEY: I'll second that.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTI	AYE
MR. TORPEY	AYE
MR. MCDONALD	AYE
MR. KANE	AYE

MR. KANE: Now I'll accept a motion on the interpretation of the 22 menu boards whether they're menu boards or actually signs and if we consider them signs then we would need an interpretation for a variance of 22 signs, if you want to handle it that way or do we interpret it as an electronic device that's used for part of the operation of the business?

MR. MCDONALD: I think the second would be the best.

MR. KRIEGER: Make a motion?

MR. MCDONALD: I will make that motion that we, I make a motion that we accept the interpretation of the 22 menu boards as a piece of the necessary equipment to operate the business and not as signs.

MR. TORPEY: I'll second that.

MR. DITTBRENNER: Can I just ask one clarification?  
We're talking about specifically which units on here?

MR. KANE: On that one we're talking about--

MR. KOEHLER: If you look at G and H.

MR. KANE: Menu housings, H.

MR. KOEHLER: It's generally the last three pages  
there. That's an actual picture of the ones in  
Kingston, those two, and then the one before it is the  
spec, it's basically the same exact thing.

MR. DITTBRENNER: Okay, roll call.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTTER	AYE
MR. TORPEY	AYE
MR. MCDONALD	AYE
MR. KANE	AYE

MR. KOEHLER: Thank you.

MR. KANE: Motion to adjourn?

MR. TORPEY: So moved.

MR. BEDETTI: Second it.

ROLL CALL

MR. DITTBRENNER	AYE
MR. BEDETTTER	AYE
MR. TORPEY	AYE
MR. MCDONALD	AYE

October 26, 2009

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MR. KANE

AYE

Respectfully Submitted By:

Frances Roth  
Stenographer

